

ORDINANCE NO.: G-2015-18

SPONSOR: BRINKERHOFF-PILEY

AN ORDINANCE TO VACATE CERTAIN PUBLIC WAYS  
OR PUBLIC PLACES WITHIN THE CITY OF  
EVANSVILLE, INDIANA, COMMONLY KNOWN AS 100 W. BUENA VISTA

BE IT ORDAINED by the Common Council of the City of Evansville, Indiana, as follows, to-wit:

**SECTION I.** That pursuant to MCE Section 9.96.06.70, a sworn petition was presented to the Common Council of the City of Evansville, requesting that the public place or public way described in Section III below be vacated by the City of Evansville.

**SECTION II.** That after due and proper notice, a timely public hearing was convened by the Common Council, at which time all interested persons were permitted to address the Common Council regarding said vacation.

**SECTION III.** That the Common Council of the City of Evansville, after due investigation and consideration has determined that the nature and extent of the public use and the public interest to be subserved is such as to warrant the vacation of the part of the public way or public place described as follows, and further indicated by the words "To Be Vacated" on the drawing hereto attached, which is made a part of this Ordinance.

**A part of the East Half of the Southeast Quarter of Section 7, Township 6 South, Range 10 West in the City of Evansville, Vanderburgh County, Indiana, and more particularly described as follows:**

**Commencing at the northeast corner of said half quarter section; thence along the east line thereof, South 01 degrees 26 minutes 12 seconds West 30.00 feet to a point on the south line of Buena Vista Road; thence along the south line of Buena Vista Road, North 88 degrees 01 minutes 36 seconds West 8.96 feet; thence South 01 degree 12 minutes 07 seconds West 10.00 feet to the point of beginning; thence South 01 degrees 12 minutes 07 seconds West 108.13 feet; thence parallel with the east line of said half, quarter section, South 01 degrees 26 minutes 12 seconds West 109.97 feet to a point on the south line of a tract of land conveyed to Jesse E. and Ashley D. Schneider, recorded in Instrument No. 2013R00020668 in the office of the Recorder of Vanderburgh County, Indiana; thence along the south line of said Schneider tract, North 88 degrees 01 minutes 36 seconds West 21.52 feet to the west right-of-way line of Baker Avenue; thence along the west line thereof, North 01 degrees 26 minutes 12 seconds East 218.10 feet to a point being 10 feet south of the south right-of-way line of Buena Vista Road; thence South 88 degrees 01 minutes 36 seconds East 21.08 feet to the point of beginning containing 0.11 acres (4.669 sq.ft.).**

**FILED**

**JUN 10 2015**

*Anna Winkler*  
CITY CLERK

**Commonly known as 100 W. Buena Vista Road, Evansville, Indiana.**


**SECTION IV.** That the vacation of said public way or public place described in Section III above is subject to an easement in favor of AT&T, WOW and Insight for the entire area affected as more particularly described above for purposes of access and maintenance of existing utilities, and, if necessary, relocation of such utilities at land owner's expense, and more particularly subject to an easement in favor of Southern Indiana Gas and Electric Company/VECTREN with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across said strips of land together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within said strips of land, and the right to trim or remove, at Company's sole discretion, any and all trees located outside said strip of land that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from said strip of land.

Therefore, the Common Council of the City of Evansville, Indiana does hereby find the above-described public way or public place is no longer required for public use and the public interest will be served by such vacation, and the Common Council of the City of Evansville does hereby vacate that portion of the public way or public place described in Section III above subject to the terms and conditions as stated in this Ordinance.

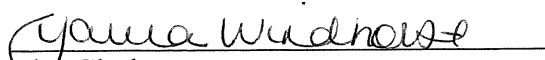
Passed by the Common Council of Evansville, Indiana, on this 13 day of JULY, 2015, and on said day signed by the President of said Common Council and attested by the City Clerk.

  
President

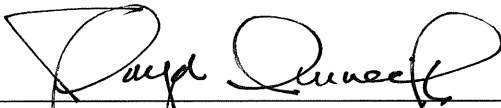
ATTEST:

  
City Clerk

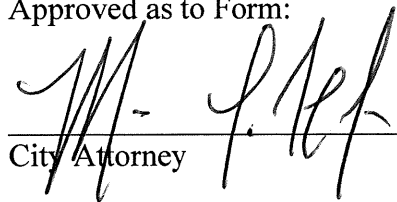
Presented by me, the undersigned, City Clerk of the City of Evansville, Indiana, to the Mayor of said City, on the 15 day of JULY, 2015, at 11 o'clock A.m.

  
City Clerk

Having examined the foregoing Ordinance, I do now as Mayor of said City of Evansville, Indiana, approve said Ordinance, and return the same to the City Clerk, this 15<sup>th</sup> day of July, 2015, at 1:15 o'clock p.m.

  
\_\_\_\_\_  
Mayor of the City of  
Evansville, Indiana

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

This instrument prepared by Steven L. Bohleber, Attorney at Law, 123 N.W. Fourth Street, Suite 503, Evansville, IN 47708.

**BEFORE THE COMMON COUNCIL OF THE CITY OF EVANSVILLE**  
**PETITION FOR THE VACATION OF PUBLIC WAYS**

**ORDINANCE NO.:** A-2015-18 **DISTRICT:** 5<sup>th</sup> Ward

**Petitioners:** Jeffrey B. Stilwell  
Martha L. Stilwell

1. Petition is hereby made pursuant to the provisions of I.C. 36-7-3-12, *et seq*, and Sections 12.05.450, *et seq*, of the Municipal Code of Evansville for the vacation of the following described portion of a public street and roadway right of way in the City of Evansville, Vanderburgh County, Indiana, to-wit:

(See Attached Legal Description, Exhibit A)

2. Petitioners are the owners of the above described properties.

3. The proposed vacation will allow orderly access and utilization by the Petitioners of their residence at said site. The vacation of said easement will not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous, nor will it make access to lands of any person by means of public way difficult or unduly inconvenienced; nor will it hinder public access to a church, school or other building or place; nor will it hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

4. The names and addresses of the persons, in addition to the petitioners who own property located within two hundred (200) feet of the property proposed to be vacated by this petition are as follows, to-wit:

(See Attached Exhibit B)

5. Attached to this petition is a location map and site plan, which more particularly identify the area sought to be vacated by this petition and the existing conditions upon the areas adjacent thereto. Filed concurrently herewith is a completed ordinance respecting the proposed vacation, notices to landowners whose land lies within two hundred (200) feet of the property to be vacated together with pre-addressed envelopes and return receipts for certified mail returnable to the City Clerk with proper postage affixed thereto and a notice by publication for publication one (1) time in a newspaper of general circulation in the City.

6. AT&T, Evansville Water & Sewer Utility, Insight Communications (now Time Warner), and W.O.W., together with all other utilities, do not desire to retain an easement within the area to be vacated unless otherwise indicated in this petition or by their attached letters. In addition, the Evansville Fire Department and Traffic Engineer (through the City Engineer) have no objections to this vacation petition.

**FILED**

JUN 10 2015

*Anna Windner*  
CITY CLERK

7. Vectren does require certain easements on the subject property, as more particularly described as follows:

Southern Indiana Gas and Electric Company, Inc., d/b/a Vectren Energy Delivery of Indiana, hereinafter referred to as Company reserved the following easement rights:

Electric line:

An easement with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across said strips of land, as shown on the attached drawing, made a part hereof, and marked "Exhibit A", together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within said strips of land, and the right to trim or remove, at Company's sole discretion, any and all trees located outside said strip of land that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from said strip of land.

Gas line:

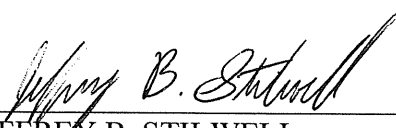
An easement with the right to lay, construct, inspect, maintain, operate, repair, alter, relocate+, enlarge, rebuild and remove a pipe line, together with drips, tie-overs, valves, anodes, protective facilities, and all other appurtenances thereto, whether above or below the surface, convenient or necessary for the transportation of gas or other substances which can be transported through a pipe line, in, under, over, across, upon, and through said strips of land, as shown on the attached drawing, made a part hereof, and marked "Exhibit A", together with the right of ingress and egress over the lands of Grantor to and from said pipe line in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees, brush or other obstructions located within said strips of land.

Petitioner prays that this vacation be granted.

Dated

4-17-15

JEFFREY B. STILWELL



Dated

4/17/15

MARTHA L. STILWELL



STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named JEFFREY B. STILWELL who acknowledged the execution of the above and foregoing Petition as his voluntary act and deed.

WITNESS my hand and Notarial Seal this 17 day of April, 2015.

Steven L. Bohleber  
Notary Public

Steven L. Bohleber  
Notary Public resides in Vanderburgh  
County, Indiana

My Commission Expires:

8-6-16

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named MARTHA L. STILWELL who acknowledged the execution of the above and foregoing Petition as her voluntary act and deed.

WITNESS my hand and Notarial Seal this 17 day of April, 2015.

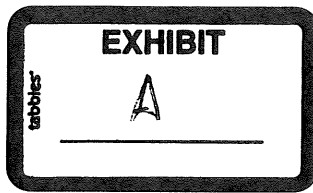
Steven L. Bohleber  
Notary Public

Notary Public resides in Vanderburgh  
County, Indiana

My Commission Expires:

8-6-16

This instrument prepared by:  
Steven L. Bohleber (#2816-82)  
123 N.W. 4th St., Suite 503  
Evansville, IN 47708



### Right-of-Way Vacation Description

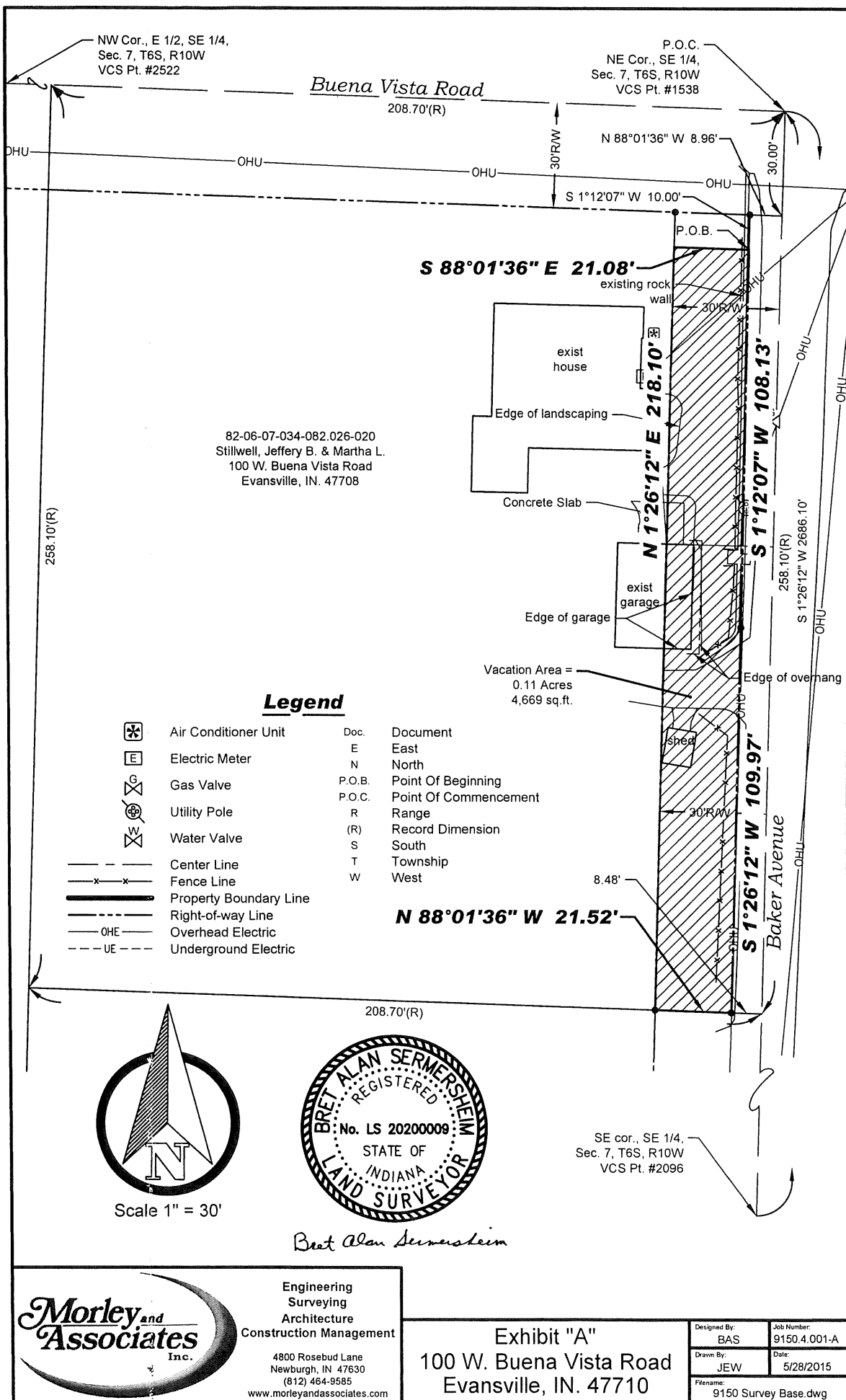
A part of the East Half of the Southeast Quarter of Section 7, Township 6 South, Range 10 West in the City of Evansville, Vanderburgh County, Indiana, and more particularly described as follows:

Commencing at the northeast corner of said half quarter section; thence along the east line thereof, South 01 degrees 26 minutes 12 seconds West 30.00 feet to a point on the south line of Buena Vista Road; thence along the south line of Buena Vista Road, North 88 degrees 01 minutes 36 seconds West 8.96 feet; thence South 01 degree 12 minutes 07 seconds West 10.00 feet to the point of beginning; thence South 01 degrees 12 minutes 07 seconds West 108.13 feet; thence parallel with the east line of said half, quarter section, South 01 degrees 26 minutes 12 seconds West 109.97 feet to a point on the south line of a tract of land conveyed to Jesse E. and Ashley D. Schneider, recorded in Instrument No. 2013R00020668 in the office of the Recorder of Vanderburgh County, Indiana; thence along the south line of said Schneider tract, North 88 degrees 01 minutes 36 seconds West 21.52 feet to the west right-of-way line of Baker Avenue; thence along the west line thereof, North 01 degrees 26 minutes 12 seconds East 218.10 feet to a point being 10 feet south of the south right-of-way line of Buena Vista Road; thence South 88 degrees 01 minutes 36 seconds East 21.08 feet to the point of beginning containing 0.11 acres (4,669 sq.ft.).

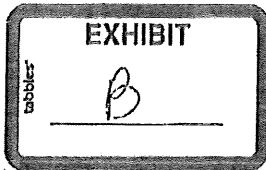
A handwritten signature in black ink, reading "Bret Alan Sermersheim".

Bret Alan Sermersheim, PLS  
Indiana Registration Number LS20200009  
Morley and Associates, Inc.  
4800 Rosebud Lane  
Newburgh, IN 47630  
812-464-9585









**9150.4.001A**  
**Adjoiners' List**

82-06-07-034-082.028-020  
Ellis, John H Jr. & Lois J  
3700 Baker Ave.  
Evansville, IN 47710

82-06-07-034-082.015-020  
Wink, Donald J & Susanna L T/E  
115 W. Buena Vista Rd.  
Evansville, IN 47710

82-06-08-034-410.001-020  
Woodland Condominium Assoc.  
P. O. Box 4175  
Evansville, IN 47724-0175

82-06-08-034-081.057-020  
Evansville Country Club Inc.  
3810 Stringtown Rd.  
Evansville, IN 47711

82-06-07-034-307.006-020  
Finnan, Timothy S & Kristin K  
Jeffers  
3819 Willow Bend Dr.  
Evansville, IN 47710

82-06-07-034-082.017-020  
Lutz, Mark D. & Julie E. H/W  
109 W. Buena Vista Rd.  
Evansville, IN 47710

82-06-08-034-370.002-020  
82-06-08-034-370.001-020  
Droste, Oscar Trust & Barbara Ann  
CoTrustees  
601 S. Green River Rd.  
Evansville, IN 47715

82-06-07-034-082.027-020  
Dill, Scott Charles & Donna Jean T/E  
3710 Baker Ave.  
Evansville, IN 47710

82-06-07-034-082.097-020  
Mongiovi, John  
132 W. Buena Vista Rd.  
Evansville, IN 47710

82-06-07-034-082.018-020  
Kuhlenschmidt, Edgar A & Audrey J  
T/E  
P. O. Box 6227  
Evansville, IN 47719

82-06-07-034-307.007-020  
Boylls, Pamela G.  
3801 Willow Bend Dr.  
Evansville, IN 47710

I, Bret A. Sermersheim, hereby certify that the above adjoiner's list is a true and accurate list of the adjoiners located within 200 feet of the proposed area of Baker Avenue to be vacated.

Bret A. Sermersheim, P.L.S.  
Morley and Associates, Inc.  
4800 Rosebud Ln.  
Newburgh, IN 47630  
812.464.9585



134 NW Sixth Street  
Evansville, Indiana 47708

October 14, 2014

Law Offices of Steven Bohleber  
123 NW Fourth Street  
Evansville, Indiana 47708

RE: Vacation of Right of Way Easement – 100 W. Buena Vista, Evansville, Indiana

Mr. Bohleber,

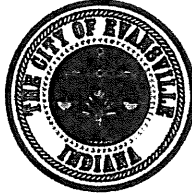
AT&T Indiana has no objection to the vacation of approximately 281' of the west 21' of Baker Avenue south of Buena Vista Road as described in your letter and Exhibit "A". AT&T has aerial facilities adjacent to the aforementioned area.

Please email or call me at 812/464-6050 if you have any questions.

Regards,

A handwritten signature in black ink, appearing to read "Marc Clark", written in a cursive style.

Marc Clark  
AT&T Design Engineer  
[mc3429@att.com](mailto:mc3429@att.com)



LLOYD WINNECKE  
MAYOR

**EVANSVILLE WATER &  
SEWER UTILITY**

ALLEN R. MOUNTS  
DIRECTOR

1 NW Martin Luther King Blvd. Room 104 • Evansville, Indiana 47708  
P O Box 19, Evansville, Indiana 47740-0001  
(812) 436-7846 • FAX (812) 436-7863 • TDD (812) 436-7864

October 23, 2014

Mr. Steven Bohleber  
123 N.W. Fourth Street, Suite 503  
Evansville, IN 47708

Re.: Proposed Vacation – Right of Way 21+ Feet east side facing Baker Avenue

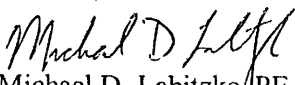
Mr. Bohleber,

This letter is in response to your request to vacate right of way as referenced above. The Evansville Water and Sewer Utility (EWSU) have the following requirements:

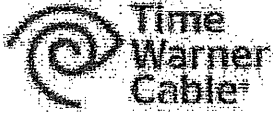
The EWSU has no reservation to the vacation of this right-of-way.

If you have any questions, please call me at 421-2130 x2228.

Sincerely,

  
Michael D. Labitzke/PE  
Deputy Director of Utilities - Engineering

1900 N. Fares Ave  
Evansville, Indiana 47711  
Ph: (812)253-2479  
Fax: (812) 909-0293  
Cell: (812) 305-8400



November 13, 2014

Law Offices of Steven L. Bohleber  
Steven Bohleber  
123 NW Fourth St. Ste 503  
Evansville, IN 47708

RE: Vacation of Right of Way Easement- 100 W Buena Vista, Evansville, IN

Dear Mr Bohleber,

In reference to your request to do a study regarding the above proposed vacation, Time Warner Cable has conducted a study and found we do not have facilities along the proposed vacate area.

Time Warner Cable does not oppose to the vacation of the above mentioned area.

If you have any questions or require additional information please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Yancey", written over a horizontal line.

Dan Yancey  
Construction Coordinator  
Time Warner Cable



Vectren Corporation  
P.O. Box 209  
Evansville, IN 47702-0209

October 9, 2014

Steven L. Bohleber, Attorney at Law  
Attn: Steven L. Bohleber  
123 N.W. Fourth Street, Suite 503  
Evansville, IN. 47708

Re: Petition to Vacate a portion of public right of way located at 100 W Buena Vista Road, Evansville, Indiana, being part of the East Half of the Southeast Quarter of Section 7, Township 6 South, Range 10 West and being shown and described on the attached exhibit.

Petitioner:

Dear Mr. Bohleber:

Engineering representatives for Southern Indiana Gas and Electric Company, Inc. doing business as Vectren Energy Delivery of Indiana ("VEDI") have researched the above location requested for vacation and there are currently existing electric and gas facilities within the subject right of way. Therefore, the vacation request should include the following language to reserve our rights.

Southern Indiana Gas and Electric Company, Inc. d/b/a Vectren Energy Delivery of Indiana, hereinafter referred to as Company reserves the following easement rights:

Electric line:

An easement with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across said strips of land, as shown on the attached drawing, made a part hereof, and marked "Exhibit A", together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within said strips of land, and the right to trim or remove, at Company's sole discretion, any and all trees located outside said strip of land that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from said strip of land.

Gas line:

An easement with the right to lay, construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove a pipe line, together with drips, tie-overs, valves, anodes, protective facilities, and all other appurtenances thereto, whether above or below the surface, convenient or necessary for the transportation of gas or other substances which can be transported through a pipe line, in, under, over, across, upon, and through said strips of land, as shown on the attached drawing, made a part hereof, and marked "Exhibit A", together with the right of ingress and egress over the lands of Grantor to and from said pipe line in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees, brush or other obstructions located within said strips of land.

The above rights must be reserved in the ordinance for Southern Indiana Gas and Electric Company/Vectren to approve the said vacation.

Please forward to my attention a copy of the recorded ordinance upon passing for our records.

Sincerely,

A handwritten signature in cursive script that reads "Colby Morris".

Colby Morris  
Land Services, Right of Way Agent  
Vectren Energy Delivery of Indiana  
(812) 491-4785



It's that kind of experience.

June 2, 2015

Steven L. Bohleber  
Attorney At Law  
123 N.W. Fourth Street, Suite 503  
Evansville, IN 47708

Attn: Steven L. Bohleber

**RE: Petition for Vacation of Right of Way Easement – 100 W Buena Vista, Evansville, IN.**

Dear Mr. Bohleber

The SIGECOM/WOW Outside Plant Engineering department reviewed the said Right of Way Easement proposed for vacation located at 100 Buena Vista Road, Evansville, Indiana as shown on Exhibit A. The findings of this review determined that SIGECOM/WOW has facilities located within the subject right of way.

As a result of these findings, SIGECOM/WOW does not object to the proposed vacate proposal for the Right of Way Easement located at 100 Buena Vista Road, Evansville, Indiana as shown on Exhibit A.

This letter granted by SIGECOM/WOW for conditional vacation is valid for one hundred and eighty (180) days.

Please contact my office should you have any questions or need any additional information.

Sincerely,

Rick Bowen  
Outside Construction Manager  
SIGECOM/WOW  
812-437-0395  
rick\_bowen@wideopenwest.com

Cc: file

October 10, 2014

Steven Bohleber  
123 NW Fourth Street, Suite 503  
Evansville, IN 47708

RE: Petition for Vacation of Right-of-Way – 3700 Block of W Baker Ave.;

Mr. Bohleber;

We recognize & acknowledge request for Vacation of Right-of-way of the 3700 block of W Baker Ave, adjacent to 100 W. Buena Vista Road, owned by Jeffery & Martha Stilwell, referenced on Exhibit "A" of the 100 W. Buena Vista Road Vacation request.

**Existing Conditions: Street right-of-way easement**

**Effect of Vacation on Fire Department: none**

**Recommendations: The Evansville Fire Department has no objection in vacating above referenced street right-of-way easement.**

Sincerely,

**Dan Grimm**  
Chief Fire Marshal  
Fire Prevention & Education  
Evansville Fire Department  
550 SE 8th Street  
Evansville, IN 47713  
812.436.4428

LLOYD WINNECKE  
MAYOR

MIKE CONNELLY  
FIRE CHIEF





**City Engineer's Office**

CIVIC CENTER COMPLEX, ROOM 321  
1 N.W. MARTIN LUTHER KING, JR BLVD.  
EVANSVILLE, INDIANA 47708-1875  
Phone: (812) 436-4990 FAX: (812) 436-4976  
TDD/Hearing Impaired (812) 436-4934

LLOYD WINNECKE  
MAYOR

BRENT A. SCHMITT, P.E.  
CITY ENGINEER

April 1, 2015

Mr. Steven L. Bohleber  
Law Offices of Steven L. Bohleber  
123 N.W. Fourth Street, Suite 503  
Evansville, Indiana 47708

Re: Proposed Vacation of Right of Way Easement  
100 W. Buena Vista Road, Evansville, IN

Dear Mr. Bohleber:

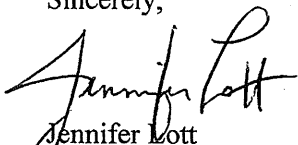
On behalf of the City Engineer's Office, I am writing in regards to the above referenced subject and your letter to Traffic Engineering Department dated October 7, 2014.

The area proposed to be vacated is an approximately 21 foot wide right-of-way that is west of the existing Baker Avenue pavement section and adjacent to the petitioner's property. Within the area proposed to be vacated, there are no public facilities under the jurisdiction of this department.

Baker Avenue south of W. Buena Vista Road is a narrow section of roadway. Based on the current width of the road at the intersection, the City Engineer's Office would object to the proposed vacation of right-of-way for Baker Avenue. Our department would recommend approval of the vacation of Baker Avenue beginning ten (10) feet south of the existing right-of-way of Buena Vista Road.

Please feel free to contact me if you have any questions.

Sincerely,

  
Jennifer Lott  
City Engineer's Office

Cc: File